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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,280	04/14/2004	Jamesena Binder	BJQ-100-A	6204
7590 03/12/2007 IRVING M. WEINER WEINER & BURT, P.C. 635 N. US-23 P.O. BOX 186 HARRISVILLE, MI 48740			EXAMINER POND, ROBERT M	
			ART UNIT	PAPER NUMBER
			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/12/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/824,280

**Applicant(s)**

BINDER, JAMESENA

**Examiner**

Robert M. Pond

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5, 9, 17, 18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 9, 17, 18, 21, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant canceled 1-4, 6-8, 10-16, 19, and 20 and amended claims 5, 9, 17, and 18, and newly added independent claims 21 and 22. All pending claims 5, 9, 17, 18, 21, and 22 were examined in this final office action necessitated by amendment.

### ***Response to Arguments***

Applicant's arguments filed 20 December 2006 have been fully considered but they are not persuasive. The extent of the Applicant's rebuttal appears to be mostly restating most of the claim language with a rebuttal statement that fails to provide concrete explanations to support the rebuttal statement. Aspects of the office action were clarified in response to statements made in the Applicant's remarks section.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

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matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 5, 9, 17, 18, 21, and 22 are rejected under 35 USC 103(a) as being unpatentable over uMember.com (Paper #20060930, a collection of prior art cited in PTO-892, Items: U-X and WW) in view of PR Newswire (Paper #20060930, PTO-892, Item: UU).**

uMember.com teaches a one-stop shopping web site that offers its members deep discounts on brand name items. UMember.com further teaches:

- obtaining a marketing agreement between a company and a vendor of discounted products and/or services; uMember.com continues to pursue agreements with suppliers/manufacturers; agreements cut out middlemen allowing uMember.com to pass along the savings by eliminating a portion of the distributor cost (U: see at least page 2; V: see at least title, pages 1 and 2).
- marketing said discounted products and/or services by the Internet, direct mailing, and/or newspaper to homeowners/customers; markets products by virtue of displaying products via its web site.
- purchasing one or more of said discounted products and/or services via the Internet and/or telephone; members purchase products via the uMember.com web site (U: see pages 1 and 2); uMember.com sells computers and software, consumer electronics, gifts, jewelry and watches, apparel and accessories, golf and sporting goods, flowers, automotive products, garden supply, home improvement items, supermarket and

household items and lodging; future categories are expected to include books, music and movies, pharmaceuticals and insurance services (U: see page 2). Please note clarifications: a) the patentable weight of the products and services as claimed is limited to "products" or "services" for examination purposes, b) members select via the web site the type of vendor, and c) members receive price-based discounts via their selections (Item: X, page 1: Epson printer sale @ \$64.95). The instant specification and drawing refers to "type of discount" but lacks disclosure as to what the Applicant is claiming other than "discount"

- Customer can advertise: uMember.com provides online classifieds and bulletin board services (U: see page 2). One of ordinary skill in the art at time of the invention would ascertain the use of online classifieds and bulletin board services as a place for the customer to advertise.
- Delivery by vendor: uMember.com's direct dealership agreement means cutting out the middleman-allowing uMember.com to pass along significant savings to its members; directly drop-shipped to customer (V: see pages 1 and 2; WW: page 2).

UMember.com teaches all the above as noted under the 103(a) rejection and teaches a) marketing and selling home improvement products, b) selecting a vendor (X: see page 1, Epson), c) selecting the type of discount (X: see page 1 direct discount), and d) marketing services (i.e. insurance), but does not disclose

the member selecting a rating of the vendor. On the other hand, PR Newswire teaches the availability of 1.2 million repair professionals via Product Assist, a comprehensive online customer care solution for retailers, manufacturers, and Internet portals. The database provides consumers with a selection of service professionals in the area qualified to perform their product repair or home improvement need. PR Newswire further teaches consumers viewing basic information about each provider, and seeing how other consumers rated a service provider by the overall consumer rating score, and learn whether the service provider is authorized by a manufacturer to perform repairs and purchase parts (UU: see at least pages 1 and 2). One of ordinary skill in the art would ascertain the applicability of the rating system to product providers. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify uMember.com to provide a customer rating system for product and service vendors as taught by PR, in order for a consumer to view how other consumers rated products and service vendors.

Please note: The examiner is clarifying the above pertaining to rating service and product providers. The previous office action presented a case of obviousness pertaining to a consumer rating of service providers and by extension product providers. The conclusion statement omitted the word "providers."

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond  
Primary Examiner  
February 28, 2007